

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

Plaintiff

v.

PUERTO RICO ELECTRIC POWER
AUTHORITY

Defendant

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Criminal No. 98-127(SEC)

ORDER

The United States filed a motion to Modify and Extend the Conditions of the defendant Puerto Rico Electric Power Authority's ("PREPA") probation (Docket # 99). The defendant filed a response (Docket # 100). After a status conference addressing the issues raised in the pleadings, the Government's motion is **GRANTED** and Defendant PREPA's probation is modified as set forth below. AND NOW, this 15th day of December, 2004:

1. Defendant PREPA shall fund the purchase of eight (8) complete air monitoring stations, including a protective shed, as such air monitoring stations are defined in paragraph 7 of the "Settlement Agreement" filed in this matter on June 21, 2002 (Docket #67) and accepted by this Court on July 18, 2004 (Docket #77). The Court accepts that the cost to purchase each such air monitoring station is as represented by the Puerto Rico Environmental Quality Board ("EQB"), namely, \$77,650.00 per station. The Court further accepts the representation of EQB and PREPA that PREPA has already funded the purchase of three (3) such air monitoring stations and that all property required for these three (3) air monitoring stations has been transferred from PREPA to EQB. Accordingly, the Court orders that, as a condition of its probation, PREPA provide to EQB funding in the amount of \$388,250.00, on or before January 21, 2005 to cover the cost of the funding of the purchase of five (5) additional air monitoring stations.

2. Defendant PREPA shall fund the operation of five (5) of the air monitoring stations referenced in Paragraph 1 of this Order for a term of not less than three (3) years.

Criminal No. 98-127(SEC)

2

The Court accepts that the cost to fund the operation of five (5) air monitoring stations for a term of not less than three (3) years is as represented by the Puerto Rico Environmental Quality Board ("EQB"), namely, \$267,324.00. Accordingly, the Court further orders that, as a condition of its probation, PREPA provide to EQB funding in the amount of \$267,324.00, on or before January 21, 2005 to cover the cost of the operation of five (5) additional air monitoring stations for a term of not less than three years.

3. The Visual Emissions Compliance Auditor ("VECA") shall no longer take visible emissions readings at PREPA's Palo Seco facility. The VECA shall continue reading at the Costa Sur facility on the schedule established in the Settlement Agreement and the VECA Scope of Services.

It is further ORDERED that:

4. The United States Environmental Protection Agency ("EPA") and EQB shall enter into an agreement through a Memorandum of Understanding ("MOU") to implement the installation and operation of the five (5) monitoring stations to be funded by PREPA for EQB. The MOU shall set forth the intention of the EQB and EPA to use their best efforts to continue the operation of the five (5) initial air monitoring stations beyond the three (3) year period and to install and operate the remaining three (3) air monitoring stations within a reasonable time.

5. Said MOU shall make provision for EPA oversight of the financial expenditures by EQB to install and operate the air monitoring stations funded by PREPA. The MOU shall further provide for a schedule to install and operate the first five (5) initial air monitoring stations to be funded by PREPA, and provide for regular reports of the status and operation of the project to EPA, the Department of Justice and the District Court.

6. A draft of the MOU shall be submitted to PREPA for review and comment within 30 days of the entry of this Order. Thereafter, PREPA shall review and comment on said MOU, and provide any comments to DOJ, EPA and EQB within 10 days. The final

Criminal No. 98-127(SEC)

3

MOU shall be submitted to the District Court by DOJ within 30 days of PREPA's review and comment.

SO ORDERED.

In San Juan, Puerto Rico, this 15th day of December, 2004.

S/ Salvador E. Casellas
SALVADOR E. CASELLAS
United States District Judge